

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Judith Franco,

Court File No.

Plaintiff,

NOTICE OF REMOVAL

v.

Master Builders Solutions Construction
Systems US, LLC,

Defendant.

To: THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Master Builders Solutions Construction Systems US, LLC hereby gives notice of removal of the above-captioned action currently pending in the Ramsey County District Court, State of Minnesota, to the United States District Court for the District of Minnesota. In support of its Notice of Removal, Defendant states as follows:

1. On or about June 23, 2021, Plaintiff, Judith Franco commenced a civil action against Defendant in the Ramsey County District Court in the State of Minnesota, by service pursuant to Minnesota Rule of Civil Procedure 3.01. A true and correct copy of the Summons and Complaint is attached as **Exhibit A** to the Declaration of Carroll T. Wright (“Wright”) filed and served herewith.

2. Defendant served an Answer to Plaintiff’s Complaint on July 12, 2021, attached as Wright Decl. **Exhibit B**.

3. Plaintiff brings claims under the Minnesota Human Rights Act, Minn. Stat. § 363A.15, contract, and common law.

4. ***Diversity Jurisdiction Basis for Removal:*** This case is a civil action over which the Court has original jurisdiction under 28 U.S.C. § 1332 and is one that Defendant may remove

to the Court pursuant to 28 U.S.C. §§ 1441 and 1446, in that Plaintiff in this civil action is diverse in citizenship from Defendant, and the amount in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

5. ***Citizenship of Parties:*** Plaintiff is the sole identified plaintiff in this action. According to the Complaint, Plaintiff was and is a citizen and resident of the State of Minnesota at the time of the commencement of this action and is now a citizen and resident of the State of Minnesota. (*See* Exhibit A.)

6. Defendant Master Builders Solutions Construction Systems US, LLC is the sole identified defendant in this action. A limited liability company's citizenship for purposes of diversity jurisdiction is the citizenship of its members. *Carden v. Arkoma Assocs.*, 494 U.S. 185, 195-96, 110 S. Ct. 1015 (1990); *Biofuels, LLC v. Biothane, LLC*, 781 F.3d 972, 975 (8th Cir. 2015) (“An LLC's citizenship, for purposes of diversity jurisdiction, is the citizenship of each of its members.”); *OnePoint Sols., LLC v. Borchert*, 486 F.3d 342, 347 (8th Cir. 2007) (“Although Borchert is a citizen of Minnesota and OnePoint is organized in Minnesota, complete diversity exists because an LLC is not necessarily a citizen of its state of organization but is a citizen of each state in which its members are citizens.”) citing *GMAC Commercial Credit LLC*, 357 F.3d at 829; *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 692 (7th Cir.2003) (stating that an LLC is not a citizen of its state of organization unless a member of the LLC is a citizen of that state).

7. At the time Plaintiff brought his civil action and all time relevant hereto, Defendant, a Delaware limited liability company, has one member, LSF11 Skyscraper US Bidco 2 LLC, Series 2. (Declaration of Matthew Burke ¶ 3.) LSF11 Skyscraper US Bidco 2 LLC, Series 2 is a Delaware limited liability company with one member, MBS CS Holding US, Inc. (*Id.*) MBS CS Holding

US, Inc. is a Delaware corporation with its principal place of business in Beachwood, OH. (*Id.*) Plaintiff is, therefore, diverse in citizenship from Defendant so as to vest removal jurisdiction in this Court.

8. ***Amount in Controversy:*** This is a civil action wherein the amount in controversy, exclusive of interest and costs, exceeds the sum of \$75,000.00. Plaintiff expressly alleges that she has incurred damages for any statutory relief to which she is entitled, which pursuant to Minn. Stat. § 363A.29 includes compensatory damages punitive damages, and treble damages; reasonable attorneys' fees and costs as provided by law; and all other relief the Court deems appropriate in excess of \$50,000. (*See Exhibit A.*) Considering Plaintiff's monetary claims, this is the type of case wherein the damages sought may reasonably exceed \$75,000, such that Defendant may properly remove this action notwithstanding Plaintiff's failure to precisely state an amount of damages exceeding the requisite amount in controversy. *Kopp v. Kopp*, 280 F.3d 883, 885 (8th Cir. 2002) ("The district court has subject matter jurisdiction in a diversity case when a fact finder could legally conclude, from the pleadings and proof adduced to the court before trial, that the damages that the plaintiff suffered are greater than \$75,000"); *Allison v. Sec. Ben. Life Ins. Co.*, 980 F.2d 1213, 1215 (8th Cir. 1992) (punitive damages); *Zunamon v. Brown*, 418 F.2d 883, 887 n.5 (8th Cir. 1969) (treble damages); *Crawford v. F. Hoffman La Roche*, 267 F.3d 760, 766 (8th Cir. 2001) citing *Mo. State Life Ins. Co. v. Jones*, 290 U.S. 199, 202 (1933) (attorney's fees). These aggregate damages amount to a claim for over \$75,000, and thus, exceed the requisite amount in controversy.

9. ***Venue.*** Venue is proper under 28 U.S.C. § 1441(a) in the United States District Court of Minnesota, based upon the allegations in Plaintiff's Complaint and Jury Demand. This

Court is the district court of the United States for the district and division embracing the place where this action is current pending.

10. ***Timing of Removal:*** Fewer than thirty (30) days have elapsed since June 23, 2021, when Plaintiff first served Defendant with the Complaint. *See* 28 U.S.C. § 1446(b).

11. Simultaneous with the filing of this Notice of Removal, Defendant has notified the Ramsey County District Court in the State of Minnesota of removal of this action. Other than answering Plaintiff's Complaint, including notifying Plaintiff of impending removal of the civil action to federal court, no other process, pleadings, or orders have been served or filed in this civil action. A copy of the Answer and the Certificate of Service of the Answer are being filed with this Notice. No other process, pleadings, or orders have been served or filed in this action.

12. This Notice is timely filed because it was made within 30 days after receipt by Defendant of the Complaint that sets forth a removable claim, and from which it first could be ascertained that this civil action is removable. 28 U.S.C. § 1446(b).

13. True and correct copies of the Notice of Removal (with accompanying Exhibits) and the Notice of Filing of Notice of Removal directed to State Court will be served upon Plaintiff's counsel and filed with the Court Administrator of the Ramsey County District Court in the State of Minnesota on this date, in accordance with the provisions of 28 U.S.C. § 1446(d).

WHEREFORE, Defendant respectfully requests that this action, now pending in the District Court for the County of Ramsey, Minnesota, be removed to the United States District Court for the District of Minnesota.

Dated: July 21, 2021

/s/ Kurt J. Erickson

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